IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO.478 of 2003

Pimpri Chinchwad Municipal Corporation.. Petitioner

versus

N.R. Shinde .. Respondents

...

Mr.N.V. Walawalkar for the petitioner.

None for the respondents

CORAM : B.H. MARLLAPALLE,J

DATED : 16th August 2005.

P.C.:

1. Heard Shri Walawalkar learned counsel for the petitioner Corporation. In Municipal Appal No.10/98 and other connected appeals, an application was filed at Exhibit-22 by the Corporation under Order VII Rule 11(d) of the Code of Civil Procedure contending that the appeals were not maintainable. This application came to be rejected by the learned

Vth Joint Civil Judge, Sr.Division at Pune on 25th February 2003. Misc. Civil Application no. 267 of 2003 praying for review of the order passed on 25th February 2003 also came to be rejected on 17th June 2003 and hence, this Revision Application.

2. It was contended that the appeal filed u/s.406 of the Bombay Provincial Municipal Corporation Act 1949 was required to be entertained and decided by the Small Causes Court having jurisdiction for the Pune city and in any case u/s.5 of the Provincial Small Causes Court Act 1887, the Court of Small Causes at Pune has the jurisdiction of the entire Haveli taluka in view of the notification issued on 3rd December 1919 by the Governor in Council. There is no dispute that the petitioner Corporation is a distinct legal entity under the Bombay Provincial Municipal Corporation Act 1949 and is not a part and/or department of the Pune Municipal Corporation and therefore, the petitioner Corporation could not rely upon the provisions of section 2(29) of the said Act. The Bombay Provincial Municipal Corporation Act 1949 is a special statute providing for remedies by way of an appeal against the rateable value fixed by the Municipal Corporation and

therefore, the notification dated 15th December 1919 could not be made applicable. This reasoning set out by the lower appellate court cannot be termed as illegal or erroneous so as to call for interference u/s.115 of the Code of Civil Procedure.

3. The Revision Application is therefore rejected summarily.

B.H.MARLAPALLE, J